

1 The Six Basic Principles

Objectives You may wish to call students' attention to the objectives in the Section Preview. The objectives are reflected in the main headings of the section.

Bellringer Ask who has belonged to organizations such as Boy Scouts, Girl Scouts, or 4H. Have students explain the basic principles, or rules, of these organizations. Then discuss the value of such principles. Explain that in this section, students will learn about the basic principles of the Constitution.


Vocabulary Builder Ask students to pick out the terms from the Political Dictionary that they think might be basic principles of the Constitution. Have them suggest a meaning for each. As students read the section, have them revise their meanings.

Lesson Plan

Teaching the Main Ideas L3

- 1. Focus** Explain that the Constitution is based on six principles. Ask students to discuss the value of basing such a document on a set of principles rather than on detailed provisions.
- 2. Instruct** List the six basic principles on the chalkboard, and circle *Limited Government*. Lead a discussion in which students try to link the principle of limited government with the other principles.
- 3. Close/Reteach** Remind students that the Constitution is fairly brief, because it deals with matters of basic principle. Next to the six principles listed on the board, write their definitions in mixed-up order. Have students match each principle with its correct definition.

Point-of-Use Resources

 **Block Scheduling with Lesson Strategies** Activities for Chapter 3 are presented on p. 20.

1 The Six Basic Principles

Section Preview

OBJECTIVES

- 1. Outline** the important elements of the Constitution.
- 2. List** the six basic principles of the Constitution.

WHY IT MATTERS

The Constitution is a brief, straightforward document that has guided American government for over 200 years. Its authors wrote the Constitution based on the principles that political power resides with the people, and that the National Government should be limited and divided into three branches to limit the power of any one of those three branches.

POLITICAL DICTIONARY

- ★ Preamble
- ★ articles
- ★ constitutionalism
- ★ rule of law
- ★ separation of powers
- ★ checks and balances
- ★ veto
- ★ judicial review
- ★ unconstitutional
- ★ federalism

The Constitution of the United States dates from the latter part of the eighteenth century. It was written in 1787, and took effect in 1789. The fact that the Constitution is more than 200 years old does *not* mean, however, that now, in the twenty-first century, it is only an interesting historical artifact, fit for museums and dusty shelves. On the contrary, it remains a vitally important and vibrant document.

The Constitution is this nation's fundamental law. It is, by its own terms, "the supreme Law of the Land"—the highest form of law in the United States.

An Outline of the Constitution

The Constitution sets out the basic principles upon which government in the United States was built and operates today. The document lays out the basic framework and procedures of our government, and sets out the limits within which that government must conduct itself.

The Constitution is a fairly brief document. Its little more than 7,000 words can be read in

half an hour. You will find the text of the Constitution beginning on page 758. As you read it, remember that this brief document has successfully guided this nation through two centuries of tremendous growth and change. One of the Constitution's greatest strengths is that it deals largely with matters of basic principle. Unlike most other constitutions—those of the 50 States and those of most other nations—the Constitution of the United States is not weighted down with detailed and cumbersome provisions.

As you read the Constitution, you will also see that it is organized in a simple and straightforward way. It begins with a short, noteworthy

▶ Although the members of the Federal Government are continually changing, from leaders of the past like Senator Henry Cabot Lodge (R., Massachusetts) to contemporary lawmakers such as Senator Mary Landrieu (D., Louisiana), the Constitution provides a lasting link between the past and present.



Block Scheduling Strategies

Consider these suggestions to manage extended class time:

■ Present students with the following scenario: They are Framers and are in the process of writing the Constitution. Elicit from the class the differences between themselves and the real Framers; for example, the real Framers did not include women or minorities. Have small groups of students write an additional section of the Constitution from their own perspectives.

■ After students complete the Learning Styles Activity on p. 69, have them review Chapter 2 to determine historic precedents that may have inspired the Framers of the Constitution to follow the six basic principles. For example, students could point out that the failure of the British to respect the political wishes of the colonists might have encouraged the Framers to follow the principle of popular sovereignty.

introduction, the **Preamble**, and the balance of the original document is divided into seven numbered sections called **articles**. The first three articles deal with the three branches of the National Government: Congress, the presidency, and the federal court system. These articles outline the basic organization and powers of each branch and the methods by which the members of Congress, the President and Vice President, and federal judges are chosen. Article IV deals mostly with the place of the States in the American Union and with their relationship with the National Government and with one another. Article V explains how formal amendments may be added to the document. Article VI declares that the Constitution is the nation's supreme law; Article VII provided for the ratification of the Constitution.

The seven articles of the original document are followed by 27 amendments, printed in the order in which they were adopted.

The Basic Principles

The Constitution is built around six basic principles: popular sovereignty, limited government, separation of powers, checks and balances, judicial review, and federalism.

Popular Sovereignty

In the United States, all political power resides in the people. The people are sovereign. They are the *only* source for any and all governmental power. Government can govern only with the consent of the governed.

The principle of popular sovereignty, so boldly proclaimed by the Declaration of Independence, is



Articles of the Constitution	
Section	Subject
Preamble	States the purpose of the Constitution
Article I	Legislative branch
Article II	Executive branch
Article III	Judicial branch
Article IV	Relations among the States
Article V	Amending the Constitution
Article VI	National debts, supremacy of national law, and oaths of office
Article VII	Ratifying the Constitution

Interpreting Tables The Constitution sets up the basic structure of our Federal Government. **How do the first three articles differ from those that follow?**

woven throughout the Constitution. In its very opening words, in the Preamble, the Constitution declares: “We the People of the United States . . . do ordain and establish this Constitution for the United States of America.”

In essence, the National Government draws its power from the people of the United States, and the people have given their government the power that it has through the Constitution. Similarly, each one of the State governments draws its authority from the people of that State, through that State's constitution.

Limited Government

The principle of limited government holds that no government is all-powerful, that a government may do *only* those things that the people have given it the power to do.

In effect, the principle of limited government is the other side of the coin of popular sovereignty. It is that principle stated the other way around: The people are the only source of any and all of government's authority; and government has only that authority the people have given to it.

The concept of limited government can be expressed another way: Government must obey the law. Stated this way, the principle is often called **constitutionalism**—that is, that government must be conducted according to constitutional

Reading Strategy

Self-Questioning

Ask students to write seven comprehension questions as they read—one about how the Constitution is organized and one about each of the six principles. When they finish the section, have them answer the questions they wrote.

Background Note

Common Misconceptions

The great principle of popular sovereignty set forth in the Constitution was hardly embraced by all of the Framers. In fact, the idea of granting the people as a whole too much say in government frightened many of them. Alexander Hamilton, for example, wrote that the “turbulent and changing” opinions of the masses “seldom judge or determine right,” and referred to the “imprudence of democracy.” George Washington, presiding at the Constitutional Convention, admonished the delegates not to produce a document that would simply “please the people.”

Point-of-Use Resources

Guided Reading and Review Unit 1 booklet, p. 18 provides students with practice identifying the main ideas and key terms of this section.

Lesson Planner For complete lesson planning suggestions, see the Lesson Planner booklet, section 1.

Political Cartoons See p. 12 of the Political Cartoons booklet for a cartoon relevant to this section.

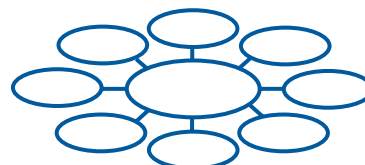
Section Support Transparencies Transparency 15, *Visual Learning*; Transparency 114, *Political Cartoon*

Organizing Information

To make sure students understand the main points of this section, you may wish to use the web graphic organizer to the right.

Tell students that a web shows a main idea and its supporting details. Ask students to use the web to outline the basic principles of the Constitution.

Teaching Tip A template for this graphic organizer can be found in the Section Support Transparencies, Transparency 1.



Answer to . . .


Interpreting Tables The first three outline the basic structure of the government, while the ones that follow address more specific topics.

Background Note

Roots of Democracy

As Americans we take great pride in the ringing phrases of the Declaration of Independence, but few realize how heavily Thomas Jefferson relied on the works of John Locke (1632–1704)—the great philosopher who hailed from, of all places, England. The Framers' ideas on limited government and popular sovereignty were influenced by Locke's most important work, *Two Treatises on Government* (1690). In this book Locke stated that the legitimacy of government sprang from the individual, or, as Jefferson would later write, from “the consent of the governed.” Locke argued that the individual was born free and was entitled to the Natural Rights of “life, liberty, and estate”—a phrase Jefferson refashioned as the “certain inalienable rights” among which were “life, liberty, and the pursuit of happiness.” If governments failed to protect these rights, subjects were entitled to withdraw their support. The American Declaration of Independence, which was based on Locke's ideas, inspired exactly that—the withdrawal of colonists' support of the British government.

Point-of-Use Resources

 **Close Up on Primary Sources** The Mayflower Compact (1620), p. 52; Fundamental Orders of Connecticut (1639), p. 53



▲ **The Rule of Law** During the Watergate scandal prosecutors accused many of President Richard Nixon's closest advisers of breaking the law. This poster implies that Nixon shared their guilt and would soon be exposed.

principles. The concept of limited government is also described as the **rule of law**, which holds that government and its officers are always subject to—never above—the law.

In large part, the Constitution is a statement of limited government. Much of it reads as clear prohibitions of power to government.¹ For example, notice the Constitution's guarantees of freedom of expression. Those great guarantees—of freedom of religion, of speech, of press, of assembly, and of petition—are vital to democratic government. They are set out in the First Amendment, which begins with the words: “Congress shall make no law. . . .”

Separation of Powers

Recall the brief discussion of the parliamentary and the presidential forms of government in

¹See, especially, Article I, Sections 9 and 10; the 1st through the 10th amendments; and the 13th, 14th, 15th, 19th, 24th, and 26th amendments.

Section 2 of Chapter 1. In a parliamentary system the legislative, executive, and judicial powers of government are all gathered in the hands of a single agency. British government is a leading example. In a presidential system, these basic powers are distributed—separated—among three distinct and independent branches of the government.

This concept is known as **separation of powers**. The idea had been written into each of the State constitutions adopted during the Revolution. A classic expression of the doctrine can be found in the Massachusetts constitution of 1780:

PRIMARY Sources

“In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.”

—Part the First, Article XXX

The Constitution of the United States distributes the powers of the National Government among the Congress (the legislative branch), the President (the executive branch), and the courts (the judicial branch). This separation of powers is clearly set forth in the opening words of each of the first three Articles of the Constitution.

Article I, Section 1 declares: “All legislative Powers herein granted shall be vested in a Congress of the United States. . . .” Thus, Congress is the lawmaking branch of the National Government.

Article II, Section 1 declares: “The executive Power shall be vested in a President of the United States of America.” Thus, the President is given the law-executing, law-enforcing, law-administering powers of the National Government.

Article III, Section 1 declares: “The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.” Thus, the federal courts, and most importantly the Supreme Court, interpret and apply the laws of the United States in cases brought before them.

Remember, the Framers of the Constitution intended to create a stronger government for the United States. Yet they also intended to limit the powers of that government. The doctrine of separation of powers was designed to that end.

Defending this arrangement, James Madison wrote:

PRIMARY Sources

“The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many . . . may justly be pronounced the very definition of tyranny.”

—The Federalist No. 47

Checks and Balances

The National Government is organized around three separate branches. As you have just seen, the Constitution gives to each branch its own field of governmental authority: legislative, executive, and judicial.

These three branches are not entirely separated nor completely independent of one another. Rather, they are tied together by a complex system of **checks and balances**. This means that each branch is subject to a number of constitutional checks (restraints) by the other branches. In other words, each branch has certain powers with which it can check the operations of the other two.

The chart on the next page describes the major features of the check-and-balance arrangement. As you can see, the Congress has the power to make law, but the President may **veto** (reject) any act of Congress. In its turn, Congress can override a presidential veto by a two-thirds vote in each house. Congress can refuse to provide funds requested by the President, or the Senate may refuse to approve a treaty or an appointment made by the President. The President is the commander in chief of the armed forces, but Congress provides that military force; and so on.

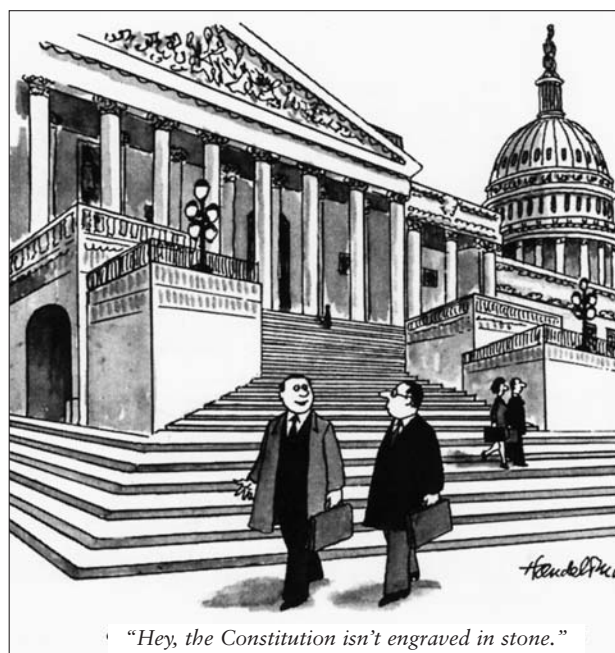
The chart also shows how the system of checks and balances links the judicial branch to the legislative and the executive branches. The President has the power to name all federal judges. Each appointment, however, must be approved by a majority vote in the Senate. At the same time, the courts have the power to determine the constitutionality of acts of Congress

and of presidential actions, and to strike down those they find unconstitutional.

Head-on clashes between the branches do not often happen. The checks-and-balances system operates all the time, however, and in routine fashion. The very fact that it exists—that each branch has its several checks—affects much of what happens in Washington, D.C.

For example, when the President picks someone to serve in some important office in the executive branch—as, say, secretary of state or director of the Central Intelligence Agency (CIA)—the President is quite aware that the Senate must confirm that appointment. So, the President is apt to pick someone who very likely will be approved by the Senate. In a similar sense, when Congress makes law, it does so with a careful eye on both the President’s veto power and the power of the courts to review its actions.

Spectacular clashes—direct applications of the check-and-balance system—do sometimes occur, of course. The President does veto some acts of Congress. On rare occasion, Congress does override one of those vetoes. And, even



Interpreting Political Cartoons Is the Constitution “carved in stone”? Why or why not?

Make It Relevant

Students Make a Difference

Robbyn Mitchell sets her sights far beyond her home town of Washington, D.C. Her involvement in Operation Day’s Work has taken her to Norway to observe the operation of the original ODW program, and to the ODW-USA constitutional convention near Philadelphia.

Sponsored by the U.S. Agency for International Development, ODW-USA encourages American students to learn about other countries and to help other students—both locally and globally—through volunteer service. Robbyn says that, for her, ODW “is about taking a stand and helping to save the world.” That is why she convinced the principal of her high school to adopt the program. At the ODW-USA convention, Robbyn and about 100 other students, teachers, and sponsors debated issues and procedures, and drafted a constitution for the organization.

Differentiated Instruction

L3

Enrichment Have students write each power of the branches of government on individual index cards. (See the chart on p. 68.) Distribute the cards among three students so that each student has all the cards related to one branch. One student reads a card for a branch of government. Other students must find a card that checks or balances the power chosen by the first student.

Preparing for Standardized Tests

Have students read the Primary Sources selection from *The Federalist* on this page and then answer the question below.

From the passage, you can infer that Madison believed tyranny

- A** results when power is held equally by many groups.
- B** could not happen in a democracy.
- C** is a result of having a strong executive branch.
- D** is a threat when powers are not separated among the branches of government.

Answer to . . .

Interpreting Political Cartoons

Some students may answer that the speaker means that the Constitution can change with the times as necessary. Others may argue that the speaker is using irony to support the notion that the Constitution should be interpreted strictly, according to the Framers’ original intent.

Differentiated Instruction**L4**

Remind students that two Presidents have been impeached: Andrew Johnson in 1868 and Bill Clinton in 1998. Ask students to create a report that illustrates the similarities and differences between these two cases. Encourage students to include in their reports information about the specific charges that were filed, the outcomes of the Senate votes to acquit in each case, and how these proceedings affected each President's remaining time in office. Ask volunteers to present their findings to the class.

GT**Differentiated Instruction****L3****American Government, American Humor**

Share the following quotation with students:

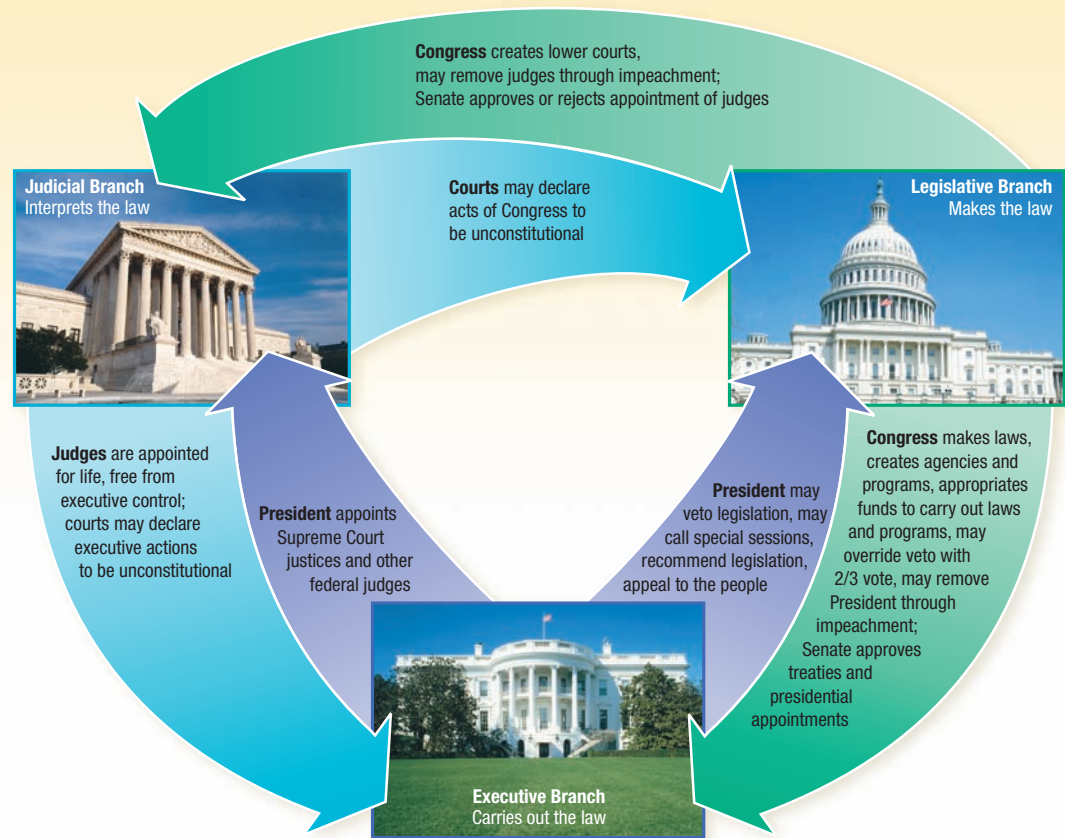
"The single most exciting thing you encounter in government is competence, because it is so rare."

—Daniel Patrick Moynihan

Discussion Ask students what Moynihan, a former Senator of New York, meant by his remark. Then have students explain whether and why the Framers of the Constitution might have agreed with it. How do each of the six principles guard against the incompetence Moynihan humorously refers to? What other bad traits do the principles guard against?

Answer to . . .

Interpreting Diagrams The President appoints Supreme Court justices and federal judges; Congress creates lower courts, may impeach judges, and approves or rejects appointment of judges (Senate).

Checks and Balances

Interpreting Diagrams Under the system of checks and balances, each branch of government can check the actions of the others. **In what way can the power of the judiciary be checked by the other branches?**

more rarely, the Senate does reject one of the President's appointees. And twice in our history, the House of Representatives has impeached, or brought charges against, a President—Andrew Johnson in 1868 and Bill Clinton in 1998—although on both occasions the President was acquitted by the Senate.

But, again, these and other direct confrontations are not common. Congress, the President, and even the courts try to avoid them. The check-and-balance system makes compromise necessary—and compromise is a vital part of democratic government.

Over time, the check-and-balance system has worked quite well. It has done what the Framers

intended it to do. It has prevented “an unjust combination of the majority.” At the same time, the system of checks and balances has not often forestalled a close working relationship between the executive and legislative branches of the Federal Government.

Note, however, that that working relationship runs more smoothly when the President and a majority in both houses of Congress have been of the same political party. When the other party controls one or both houses, partisan friction and conflict play a larger than usual part in that relationship.

Through most of our history, the President and a majority of the members of both houses of

Congress have been of the same party. Over the past 50 years or so, however, the American people have become quite familiar with divided government—that is, with split control, with a political environment in which one of the major parties occupies the White House and the other controls Congress.

That is not the situation today. The Republican Party has firm control of both the executive and legislative branches of the National Government—and it strengthened that dominant position with decisive victories in both the presidential and the congressional elections of 2004.

Judicial Review

One aspect of the principle of checks and balances is of such overriding importance in the American constitutional system that it stands, by itself, as one of that system's basic principles: judicial review.

The power of **judicial review** is the power of courts to determine whether what government does is in accord with what the Constitution provides. More precisely, judicial review may be defined this way: It is the power of a court to determine the constitutionality of a governmental action.

In part, then, judicial review is the power to declare **unconstitutional**—to declare illegal, null

and void, of no force and effect—a governmental action found to violate some provision in the Constitution. The power of judicial review is held by all federal courts and by most State courts, as well.²

The Constitution does not provide for judicial review in so many words. Yet it seems clear that the Framers intended that the federal courts, and in particular the Supreme Court, should have that power. In *The Federalist* No. 78 Alexander Hamilton wrote that “independent judges” would prove to be “an essential safeguard against the effects of occasional ill humors in society.” In *The Federalist* No. 51 James Madison called the judicial power one of the “auxiliary precautions” against the possible dominance of one branch of government over another.

In practice, the Supreme Court established the power of judicial review in the landmark case of *Marbury v. Madison* in 1803. (We shall take a close look at that case and the doctrine of judicial review in Chapter 18.) Since *Marbury*, the Supreme Court and other federal and State courts have used the power in thousands of cases. For the most part, the courts have

²Generally, the power is held by all courts of record. These are courts that keep a record of their proceedings and have the power to punish for contempt. Usually, only the lowest courts in a State—justice of the peace courts, for example—are not courts of record.



▲ The Supreme Court has struck down federal laws that regulated child labor and outlawed the burning of the United States flag. **Critical Thinking** What characteristic of a law can lead the Supreme Court to overturn it?

CONSTITUTIONAL PRINCIPLES

Judicial Review

In the case of *Marbury v. Madison*, the Supreme Court chose not to exercise the power to force Secretary of State James Madison to follow through on President Adams's appointment of William Marbury as justice of the peace. Ironically, by not choosing to use that power, the Court established the process of judicial review—by which the Court dramatically expanded its power.

Activity

Have students review Supreme Court cases that deal with judicial review in the Close Up on Supreme Court Cases booklet. Then have them consider the rulings from these cases and write a brief essay on the importance of the power of judicial review. Ask students to consider what might happen if the courts did not have the power of judicial review.

Background Note

Constitutional Issues

Although the Civil War was certainly the best-known dispute over the concept of federalism, it was not the first threat to the Union. In 1814, New England State delegates met at the Hartford Convention to protest the War of 1812 and recommended secession for the region unless Federal power was curtailed. In 1832, South Carolina threatened secession after the Federal Government blocked its attempt to invoke a doctrine of “nullification,” which would have exempted the State from paying a tariff Southerners believed to favor the North.

Differentiated Instruction

L3

Divide the class into six groups. Assign each group one of the six basic principles. Provide each group with 5–6 index cards. Have group members write the definition of their principle on one card, and examples of the principle or terms associated with it on the rest of the cards. Cards from all of the groups should be placed in a box and shuffled. After the teacher has listed the six principles on the chalkboard, students should alternate turns picking a card and placing it under the appropriate principle on the board. Groups earn one point for each member's correct response.

SN

Point-of-Use Resources

The Enduring Constitution

Judicial Review, p. 7

Basic Principles of the Constitution Transparencies Transparencies 37-43, *Judicial Review*

Answer to . . .

Critical Thinking If it is deemed unconstitutional.

Point-of-Use Resources



Guide to the Essentials Chapter 3, Section 1, p. 24 provides support for students who need additional review of section content. Spanish support is available in the Spanish edition of the Guide on p. 17.



Quiz Unit 1 booklet, p. 19 includes matching and multiple-choice questions to check students' understanding of Section 1 content.



Close Up on Primary Sources *Marbury v. Madison* (1803), p. 64; William Rehnquist, *On Judicial Activism* (1998), p. 66



Presentation Pro CD-ROM Quizzes and multiple-choice questions check students' understanding of Section 1 content.

Answers to . . .

Section 1 Assessment

1. To state the broad purposes of the Constitution, and introduce the concepts of popular sovereignty and representative government that it will explain in detail.
2. Examples should include two of the following. Judicial: courts declare executive actions or actions of Congress to be unconstitutional. Legislative: impeach judges and override presidential vetoes; approve or reject appointments (Senate). Executive: appoint justices and judges; veto legislation and call special sessions.
3. The law is considered null and void.
4. Definitions will vary, but should be based on the text.
5. The legislative branch *makes* the law: drafts laws and amendments, appropriates funds, approves treaties. The executive branch *carries out* the law: vetoes or recommends legislation, calls special sessions, and makes appeals to the people. The judicial branch *interprets* the law: it tries cases and executes judicial review.

upheld challenged governmental actions. That is, in most cases in which the power of judicial review is exercised, the actions of government are found to be constitutional.

That is not always the case. To date, the Supreme Court has decided some 150 cases in which it has found an act or some part of an act of Congress to be unconstitutional. It has struck down several presidential and other executive branch actions as well. The Court has also voided hundreds of actions of the States and their local governments, including more than 1,100 State laws.

Federalism

As you know, the American governmental system is federal in form. The powers held by government are distributed on a territorial basis. The National Government holds some of those powers, and others belong to the 50 States.

The principle of **federalism**—the division of power among a central government and several regional governments—came to the Constitution out of both experience and



▲ This statue in Concord, Massachusetts, pays tribute to the Minutemen who fought British troops to protect self-government.

necessity. In Philadelphia, the Framers faced a number of difficult problems, not the least of them: How to build a new, stronger, more effective National Government while preserving the existing States and the concept of local self-government.

The colonists had rebelled against the harsh rule of a powerful and distant central government. They had fought for the right to manage their local affairs without the meddling and dictation of the king and his ministers in far-off London. Surely, they would not now agree to another such government.

The Framers found their solution in federalism. In short, they constructed the federal arrangement, with its division of powers, as a compromise.

It was an alternative to the system of nearly independent States, loosely tied to one another in the weak Articles of Confederation, and a much feared, too powerful central government. We shall explore the federal system at length in the next chapter.

Section 1 Assessment

Key Terms and Main Ideas

1. What is the purpose of the **Preamble** to the Constitution?
2. List two examples of how **checks and balances** work in the Federal Government.
3. What is the immediate effect if a law is declared **unconstitutional**?
4. Explain **federalism** in your own words.

Critical Thinking

5. **Making Comparisons** What are the different roles of the executive branch, legislative branch, and judicial branch?
6. **Understanding Point of View** Why were the Framers of the Constitution careful to limit the powers of the Federal Government?

Progress Monitoring Online

For: Self-Quiz and vocabulary practice
Web Code: mqa-1031

Go Online
PHSchool.com

For: An activity on the separation of powers
Web Code: mqd-1031

6. Answers should reflect an understanding that they wanted to respect self-government at the State level and prevent tyranny.
7. Judges may be removed by Congress, and Congress is directly accountable to the people who elect them.

Progress Monitoring Online

For: Self-quiz with vocabulary practice
Web Code: mqa-1031

Go Online
PHSchool.com

Typing in the Web Code when prompted will bring students directly to detailed instructions for this activity.